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Netflix, Inc., and  
Netflix Worldwide Entertainment, LLC

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FIONA HARVEY,

Plaintiff,

v.

NETFLIX, INC., and NETFLIX  
WORLDWIDE ENTERTAINMENT,  
LLC,

Defendants.

Case No. 2:24-cv-04744-RGK-AJR

**REQUEST FOR JUDICIAL NOTICE IN  
SUPPORT OF DEFENDANTS'  
MOTION TO DISMISS**

Date: September 3, 2024  
Time: 9:00 a.m.  
Place: Courtroom 850

Hon. R. Gary Klausner

**REQUEST FOR JUDICIAL NOTICE**

**I. INTRODUCTION.**

Pursuant to Federal Rule of Evidence 201 and the incorporation by reference doctrine, defendants Netflix, Inc., and Netflix Worldwide Entertainment, LLC (collectively, “Netflix”), respectfully request that the Court take judicial notice of the documents identified in this Request and attached to the Declaration of Marvin S. Putnam (the “Putnam Decl.”) in support of Netflix’s Motion to Dismiss Plaintiff Fiona Harvey’s Complaint (the “Complaint”) filed concurrently herewith.

**II. LEGAL STANDARD.**

Under Rule 201 of the Federal Rules of Evidence, courts may take judicial notice of any fact that is “not subject to reasonable dispute because it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). A court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). Proper subjects of judicial notice include publicly available news articles, *see Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 N.18 (9th Cir. 1999), and publicly accessible websites, *see Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998-99 (9th Cir. 2010).

When resolving a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6), this Court “must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007); *see also In re Am. Apparel, Inc. S’holder Litig.*, 855 F. Supp. 2d 1043, 1060-62 (C.D. Cal. 2012) (considering, on a motion to dismiss, documents referenced and relied upon in plaintiff’s complaint, as well as judicially noticed news reports and press releases).

Documents that are subject to judicial notice may be considered “without converting a motion to dismiss into a motion for summary judgment[.]” *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1016 n.9 (9th Cir. 2012).

### III. JUDICIAL NOTICE IS APPROPRIATE.

All exhibits attached to the Putnam Declaration are properly subject to judicial notice. Websites are proper subjects of judicial notice. *See Whitaker v. Fortuna Enterprises, L.P.*, 2021 WL 4260606, at \*2 n.2 (C.D. Cal. May 21, 2021) (granting defendant’s request to take judicial notice of a “hotel website”); *Threshold Enterprises LTD. V. Pressed Juicery, Inc.*, 445 F. Supp. 3d 139, 146 (N.D. Cal. 2020) (“In general, websites and their contents may be judicially noticed.”). Exhibit A is a screen capture of the YouTube page for Fiona Harvey’s (“Harvey’s”) May 9, 2024 interview on *Piers Morgan Uncensored*. Putnam Decl. Ex. A. This interview is introduced to show the fact that Harvey gave an interview on Piers Morgan Uncensored, that the interview was nearly an hour long, and that the interview has garnered over 14 million views to date, but not for the truth of the statements asserted therein.

Courts may also take judicial notice of articles. *See In re Bofl Holding, Inc. Secs. Litig.*, 2018 WL 1410729, at \*7 n.5 (S.D. Cal. Mar. 21, 2018) (taking judicial notice of the complete contents of articles referenced in the complaint). Exhibits B-G are all publicly available articles that are properly subject to judicial notice under Federal Rule of Evidence 201(b)(2). Putnam Decl. Exs. B-G. Netflix does not request that the Court accept the articles for the truth of the matters asserted in them, but rather for their existence and content. *See, e.g., Am. Apparel*, 855 F. Supp. 2d at 1060-62.

Specifically, Exhibits B-D are introduced to show that Harvey was publicly accused of stalking and harassment. These articles demonstrate that several news sources reported on accusations regarding Harvey harassing and stalking Scottish solicitor Laura Wray and her then-husband Labour Party Member of Parliament

1 Jimmy Wray, First Minister of Scotland Donald Dewar, and former Labour Party  
2 Member of Parliament (now Prime Minister of the United Kingdom) Keir Starmer.  
3 Putnam Decl. Exs. B-D. Exhibits E and F are cited to show that members of the  
4 public speculated that several other individuals, other than Harvey, may have been  
5 the inspiration for the Martha Scott character in the Series. Putnam Decl. Exs. E, F.  
6 Exhibits B and G are cited to show the existence of public controversy regarding  
7 Harvey's involvement in politics and that Harvey's political aspirations were in the  
8 public realm. Putnam Decl. Exs. B, G. These articles show that news sources were  
9 discussing Harvey's unsuccessful bid to win nomination for a seat in Scottish  
10 Parliament and her involvement at a Labour Party short-listing meeting.

11 The existence and contents of the *Piers Morgan Uncensored* interview and  
12 the articles are not subject to reasonable dispute and are capable of accurate and  
13 ready determination. Netflix thus requests that the Court take judicial notice of the  
14 following exhibits:

15 **Putnam Decl. Ex. A** is a true and correct copy of a screen capture of the  
16 YouTube page for Harvey's May 9, 2024 interview on *Piers Morgan Uncensored*.  
17 Netflix cites to the interview for the fact that Harvey gave an interview on May 9,  
18 2024 on *Piers Morgan Uncensored*, which was 54 minutes and 43 seconds in length  
19 and has received over 14 million views.

20 **Putnam Decl. Exs. B-D** are publicly available articles that Netflix cites to  
21 show that Harvey was publicly accused of stalking and harassing Laura Wray,  
22 Jimmy Wray, Donald Dewar, and Keir Starmer, and the existence of public interest  
23 in Harvey's stalking and harassment of these individuals.

24 **Putnam Decl. Exs. E and F** are publicly available articles that Netflix cites  
25 to show that members of the public speculated that individuals (other than Harvey)  
26 were the inspiration for the Martha character in the Series.

27 **Putnam Decl. Exs. B and G** are publicly available articles that Netflix cites  
28 to show the existence of public controversy regarding Harvey's attempted run for a

1 Scottish Parliament seat and that Harvey's involvement in politics existed in the  
2 public realm.

3 These articles and the *Piers Morgan Uncensored* interview are all publicly  
4 available and their existence and contents are not subject to dispute. They are  
5 introduced in support of Netflix's Motion to Dismiss the Complaint to show the  
6 existence and contents of certain facts as described above, and not for the truth of  
7 any matters asserted in the articles or the interview. Netflix has supplied the Court  
8 with all necessary information pursuant to Federal Rule of Evidence 201(c)(2), and  
9 thus, the Court should take judicial notice of the existence of the aforementioned  
10 exhibits.

11 **IV. CONCLUSION.**

12 In connection with Netflix's Motion to Dismiss the Complaint and for the  
13 reasons above, the Court should take judicial notice of Exhibits A-G to the  
14 Declaration of Marvin S. Putnam, filed concurrently herewith.

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16  
17 Dated: July 29, 2024

Respectfully submitted,

18 LATHAM & WATKINS LLP  
19 Marvin S. Putnam

20 By /s/ Marvin S. Putnam  
21 Marvin S. Putnam  
22 Attorney for Defendants  
23 Netflix, Inc., and Netflix Worldwide  
24 Entertainment, LLC  
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